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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/658,405	09/10/2003	Thami Smires	A-8196. RNFMP/bh	2238

7590 05/16/2008  
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2361 Jefferson Davis Highway  
Arlington, VA 22202

EXAMINER
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MEINICKE DIAZ, SUSANNA M

ART UNIT	PAPER NUMBER
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3692

MAIL DATE	DELIVERY MODE
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05/16/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

***Attachment to Advisory Action (dated May 12, 2008)***

1. The declaration filed on March 24, 2008 under 37 CFR 1.131 has been considered but is ineffective to overcome the Kim reference.

The evidence submitted is insufficient to establish a reduction to practice of the invention in this country or a NAFTA or WTO member country prior to the effective date of the Kim reference. While the cited articles serve as evidence that most of the features of claim 1 were reduced to practice prior to Kim's earliest priority date of July 22, 2002, the cited articles do not disclose the claimed feature of "allowing the merchant associated with each of the point-of-sale terminal devices to...[alter] the transactions." While the Examiner agrees that the cited references used to establish reduction to practice explain that a merchant can view pending transactions, there is no mention of allowing the merchant to actually alter the transactions via the website nor is such a feature deemed inherent to the CHARGE ANYwhere software, as disclosed in these articles.

Applicant argues that "alter" means "to make different without changing into something else." (Page 3 of Applicant's response) Applicant further submits that the evidence shows how a merchant can void a transaction via a website. The Examiner asserts that voiding a transaction cancels the transaction completely; therefore, it is questionable that the word "alter" would normally imply the voiding of a transaction since the transaction is completely cancelled, i.e., the transaction is effectively changed from pending to non-existent. Additionally, even if it were persuasively argued that a voided transaction is an altered transaction, the scope of altering a transaction is much

broader than voiding a transaction and Applicant's evidence of conception has not clearly shown that Applicant had possession of the full scope of altering a transaction. If Applicant were to amend the claims to specify that a transaction were voided instead of altered (in such a manner that the amendment were fully supported by Applicant's original disclosure), then the currently submitted evidence in support of the declaration under 37 CFR 1.131 would be sufficient to overcome the Kim reference.

2. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Susanna M. Diaz whose telephone number is (571) 272-6733. The examiner can normally be reached on Monday-Friday, 8 am - 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kambiz Abdi can be reached on (571) 272-6702. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Susanna M. Diaz/  
Primary Examiner, Art Unit 3692